

A Democracy Crisis in The Making

Wisconsin Legislation Increasing the Risk of Election Subversion

In the 21 months since the 2020 presidential election, legislatures across the country have moved to seize power from professional, non-partisan election administrators and to needlessly expose the running of elections to partisan influence and disruption. This effort increases the risk of a crisis in which the outcome of an election could be decided contrary to the will of the people. [This year alone](#), lawmakers across 30 states have introduced hundreds of new bills that increase the likelihood of election subversion, whether directly or indirectly. In some cases, the potential subversion is quite direct—for example, bills that give the legislature the power to choose a victor contrary to the voters’ will. In others, the impact is less direct but still dangerous. Some bills would introduce dysfunction and chaos into the election system and could lead to delay, uncertainty, and confusion, all of which could provide cover for subversion. This factsheet spotlights the status of election subversion legislation and other efforts in Wisconsin.

[In our report on this trend](#), we analyzed legislation introduced in Wisconsin and determined whether they might fall into one of several types of proposals that increase the risk of election subversion. These categories include:

#1: Usurping control over election results.

A handful of states have considered bills that would give legislators direct or indirect control over election outcomes, allowing lawmakers to reject the choice of the voters. Although these proposals did not become law in 2022, that they are even being introduced indicates that legislatures are considering the option to overturn future elections. This raises obvious alarms for democracy.

As of July 31, we have found 1 bill in this category that was introduced this year in Wisconsin or carried over from last year.

- [AJR 120](#)



#2: Requiring partisan or unprofessional “audits” or reviews.

Legislation proposing unprofessional or biased reviews of election results has surged in 2022. These bills call for procedures that are vague or subject to abuse, and in some cases hand the power to call for audits to political parties or the legislature. These bills threaten to call election outcomes perpetually into doubt. They would tie up election administrators and likely would amount to state-sponsored vehicles for disinformation.

As of July 31, we have found 4 bills in this category that were introduced this year in Wisconsin or carried over from last year.

- [AJR 120](#)
- [AB 983](#)
- [AB 1003](#)
- [SB 936](#)

#3: Seizing power over election responsibilities.

Legislatures have proposed shifting power from professional election administrators to partisan legislatures or legislatively appointed officials. These bills increase the danger of partisan election manipulation and raise the risk of an election crisis.

As of July 31, we have found 12 bills in this category that were introduced this year in Wisconsin or carried over from last year.

- [AB 111](#)
- [AB 433](#)
- [AB 996](#)
- [AB 1000](#)
- [AB 1003](#)
- [AB 1006](#)
- [SJR 84](#)
- [SB 432](#)
- [SB 936](#)
- [SB 941](#)
- [SB 942](#)
- [SB 943](#)

#4: Creating unworkable burdens in election administration.

These bills increase the risk of subversion by intruding on the granular details of election administration. One particularly dangerous flavor of these bills, under consideration in Arizona, would require all ballots to be counted by hand, practically guaranteeing delays, higher rates of counting error, and increased risk of tampering by bad actors.

As of July 31, we have found 19 bills in this category that were introduced this year in Wisconsin or carried over from last year.

- [AJR 134](#)
- [AB 194](#)
- [AB 978](#)
- [AB 981](#)
- [AB 996](#)
- [AB 1001](#)
- [AB 1003](#)
- [AB 1004](#)
- [AB 1005](#)
- [AB 1046](#)
- [SJR 101](#)
- [SB 207](#)
- [SB 213](#)
- [SB 934](#)
- [SB 935](#)
- [SB 936](#)
- [SB 941](#)
- [SB 942](#)
- [SB 1077](#)

#5: Imposing disproportionate criminal or other penalties.

Legislatures have proposed criminal prosecution of election officials for poorly defined offenses and have created criminal and civil liability for steps that election officials routinely take to help voters cast ballots. States are also escalating the enforcement of election laws by creating entirely new law enforcement agencies, which can breed distrust in elections and election officials and interfere with effective election administration.

As of July 31, we have found 15 bills in this category that were introduced this year in Wisconsin or carried over from last year.

- [AB 198](#)
- [AB 201](#)
- [AB 310](#)
- [AB 398](#)
- [AB 761](#)
- [AB 999](#)
- [AB 1000](#)
- [AB 1003](#)
- [AB 1004](#)
- [SB 214](#)
- [SB 393](#)
- [SB 730](#)
- [SB 935](#)
- [SB 939](#)
- [SB 942](#)

Wisconsin Legislative Spotlight

In Wisconsin, state Representative Timothy Ramthun, who ran and lost in the Republican gubernatorial primary, introduced measures to decertify the state's 2020 election results ([AJR 120](#)); to criminalize conduct by election officials ([AB 761](#)); to alter the state's election administration infrastructure by dissolving the bipartisan Wisconsin Election Commission (WEC) ([AB 981](#)); and to allow candidates to request forensic and cyber audits of election results ([AB 983](#)).

Wisconsin considered two bills, [AB 1003](#) and [SB 936](#), that would have enshrined into statute the false claim that certain jurisdictions—namely, jurisdictions that are more urban, more racially diverse, and more likely historically to vote for Democratic candidates—are more likely to commit voter fraud by singling out Madison and Milwaukee to have a disproportionate number of their electronic voting machines subject to a performance audit, compared with other jurisdictions in the state.

[SB 941](#) and [AB 996](#) would have mandated new legislative involvement in how state election officials respond to federal election directives and guidance and/or how federal election funding reaches their offices, potentially setting up clashes between federal and state governments.

Wisconsin also considered two bills ([AB 1005](#) and [SB 934](#)) that would require the WEC to give daily access to the voter registration database to three separate executive branch departments, greatly increasing the opportunities for error, misuse, and the administrative burden on multiple agencies.

Subversion from Beyond the Statehouse

Legislative election investigations

In the summer of 2021, the speaker of the Wisconsin Assembly, Robin Vos, announced that he had [hired](#) Michael Gableman, a former justice of the Wisconsin Supreme Court, as special counsel to conduct an “investigation” of the 2020 election (see spotlight in the [May 2022 report](#) for more details). While Vos [fired](#) Gableman in August 2022, the investigation has cost taxpayers one million dollars in salaries and litigation fees.

Actions by law enforcement to undermine elections

Eleven months after the 2020 election, the sheriff in Racine County alleged that five of the six members of the bipartisan WEC committed felonies. He [threatened](#) them with prosecution and requested a statewide investigation. His allegations stemmed from a 2020 WEC decision regarding how nursing home staff could assist nursing home residents with their absentee ballots. The Racine County Sheriff asserted this was a violation of state law and held a press conference announcing that he had discovered voter fraud and called for a statewide investigation by the attorney general. He later recommended that the county district attorney [prosecute](#) four of the five WEC commissioners. This in turn led to an effort by other officials to have the WEC commissioners [removed](#) from office. The attorney general [dismissed](#) the sheriff’s efforts as a publicity stunt designed to intimidate the WEC and undermine faith in the election, and the district attorney ultimately decided not to bring any charges.

Election Deniers

As 2022 began, more than 100 so-called election deniers were in the [running](#) to be either governor, attorney general, or secretary of state. Many of them are [campaigning](#) on lies and conspiracy theories. Tim Michels, the Republican nominee for governor in Wisconsin, [declined](#) as recently as this June to say whether he will certify the 2024 election if former President Donald Trump runs and loses in the state.

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